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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/601,913

08/08/2000

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V-177

5275

802

7590

12/17/2008

PATENTTM.US

P. O. BOX 82788

PORTLAND, OR 97282-0788

EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

12/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/601,913	Applicant(s) SAFRONOV ET AL.	
	Examiner ALEX P. RADA	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 and 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed 2 September 2008 wherein applicant amends claims 21, 22 and claims 17 and 21-22 are pending in this application.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flow chart for method claims 21-22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 21-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The method of claims 21-22 do not provide any steps upon playing a space game. How do play the game according to the method claims 21-22? Claims 21 and 22 do not provide any means of how one would play the game according to the method claimed. The examiner request applicant to point out in the specification as originally filed the method of how the game is played.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language regarding “the gaming procedures of conventional roulette and conventional lottery” cannot be determined. How would a user go about playing the space game with the procedures of conventional roulette and conventional lottery? How is the device of claim 17 used as a generator of random numbers?

Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: The steps of how the game is actually played are not provided and cannot be

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determined. How do the device of claim 17 and the gaming procedures of conventional roulette constitute the steps of playing a space game? The method does not provide steps of how the space game is played.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitazawa (JP 05-286500).

Kitazawa discloses the use of satellites (space vehicle) randomly moving in space outside the Earth observes and catches some space debris (game elements), an event assessment means (device 3) located within the satellite body and having a set of fields (detecting sensors 2) reliably separated from each other and provided with identification markers (drawings 1-2, 4; wherein each of the sensors on the satellite body are the identification markers), and a technical facility, wherein the set of debris detecting sensors (2) transmit the detection signal to the device (3) to detect the hitting of the set of fields by the elements in some moment of time (space debris) located on board the space vehicle (satellite), and sensors generating signals to indicate collision on the game fields, along with information about exact game field identification marker and time of collision (device 3; wherein the device 3 has a recorder for recording information and/or communication, which is understood to record data (which may include time) regarding which sensor(s) on a particular part or section of the

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satellite that was activated. The satellites in Kitazawa, in its broadest reasonable interpretation, is the space vehicle; the game elements, in its broadest reasonable interpretation, is the space debris; the game event assessment means, in its broadest reasonable interpretation, is the device or equipment (3), the technical facility for registering a game event, in its broadest reasonable interpretation is the debris detecting sensors, which is located outside the earth (2) transmit the detection signal to the device (3) to detect the hitting of the set of game fields by the elements (space debris) located on board the space vehicle (satellite).

Kitazawa is silent in regards to the telemetry channel for transmitting the game event occurrence data outside the earth. Examiner takes official notice of the fact that telemetry is conventionally employed in the satellite art to provide data concerning a satellite's condition and events occurring on a satellite to the control station on earth. For example, in the movie Armageddon or the Apollo 13 incident, where the communications being transmitted from the satellites, space shuttle, capsule, space station or the like to the control station on earth. Kitazawa discloses a recorder for recording information and/or communication equipment, which is understood to relay information back and forth. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kitazawa to include a telemetry channel in order to follow standard practice in the industry by providing data concerning a satellite's condition and events occurring on a satellite to the control station on earth. See MPEP 2114 and In re Ngai.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitazawa (JP 05-286500) in view of Carlin (US 4,763,284).

Kitazawa discloses the use of satellites (space vehicle) randomly moving in space outside the Earth observes and catches some space debris (game elements), an event assessment means (device 3) located within the satellite body and having a set of fields (detecting sensors 2) reliably separated

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from each other and provided with identification markers (drawings 1-2, 4; wherein each of the sensors on the satellite body are the identification markers), and a technical facility, wherein the set of debris detecting sensors (2) transmit the detection signal to the device (3) to detect the hitting of the set of fields by the elements in some moment of time (space debris) located on board the space vehicle (satellite), and sensors generating signals to indicate collision on the game fields, along with information about exact game field identification marker and time of collision (device 3; wherein the device 3 has a recorder for recording information and/or communication, which is understood to record data (which may include time) regarding which sensor(s) on a particular part or section of the satellite that was activated. The satellites in Kitazawa, in its broadest reasonable interpretation, is the space vehicle; the game elements, in its broadest reasonable interpretation, is the space debris; the game event assessment means, in its broadest reasonable interpretation, is the device or equipment (3), the technical facility for registering a game event, in its broadest reasonable interpretation is the debris detecting sensors, which is located outside the earth (2) transmit the detection signal to the device (3) to detect the hitting of the set of game fields by the elements (space debris) located on board the space vehicle (satellite).

Kitazawa is silent in regards to generating signals about collisions to mark the identification marker and the exact time of collisions and the telemetry channel for transmitting the game event occurrence data outside the earth.

Carlin teaches a system that records the data of occurrence and relative time of each punch by a boxer and displays the results of each impact of the punch. A sensor(s) in each of the gloves activates when the sensor within each of the gloves is impacted and displays the magnitude, relative time and location to determine the force and time delivered by a sporting participant. Wherein the broadest reasonable interpretation of the generating signals, is the boxing gloves having the sensors;

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the broadest reasonable interpretation of identification marker and time of collision, is the displayed impact of the boxing glove impacting (collision) on the opposing opponent with the measured reading on the display. By taking a known system of determining the time of impact and identifying the impact on a display and combining the concept to a device for play in space, one of ordinary skill in the art would yield predictable results of identifying the results of each contact, collision, force, blow, etc. to determine different outcomes, effects or results dependent upon the particular sporting event or occasion. Examiner takes official notice of the fact that telemetry is conventionally employed in the satellite art to provide data concerning a satellite's condition and events occurring on a satellite to the control station on earth. For example, in the movie Armageddon or the Apollo 13 incident, where the communications being transmitted from the satellites, space shuttle, capsule, space station or the like to the control station on earth. Kitazawa discloses a recorder for recording information and/or communication equipment, which is understood to relay information back and forth. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kitazawa to include a telemetry channel in order to follow standard practice in the industry by providing data concerning a satellite's condition and events occurring on a satellite to the control station on earth.

Response to Arguments

9. Applicant's arguments filed 11 September 2008 have been fully considered but they are not persuasive.

Applicant contends that the amendments to claims 21-22 that anyone skilled in the art of gambling and random numbers generators is apparently enable to perform all the essential steps

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necessary to play a space game using the random number generator by claim 17 and procedure of traditional roulette or traditional lottery.

The examiner respectfully disagrees. Claims 21-22 as amended does not provide any method of playing the space game. Applicant relies upon claim 17 for a random number generator, but a random number is not claimed in claim 17. Applicant fails to provide any step or procedure of how (applicant's) game is played. The mere mention of using the device of claim 17 as a random number generator does provide one of ordinary skill in the art how the game is to be played.

Applicant contends that the reference of Kitazawa does not disclose as being considered as a game or can be used in a game.

The respectfully disagrees. Kitazawa discloses structurally applicants claimed invention as discussed above. As noted in MPEP 2114 a claim containing a recitation with respect to the manner in which the claimed apparatus intended to be employed does not differentiate the claimed apparatus from the prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. While features of Kitazawa are recited structurally, applicant's claims are directed to an apparatus that is not distinguished from the prior art in terms of structure rather than function. The only indication that claimed invention is a game is in the preamble. The body of the claim does not provide elements, rules procedures of an actual game play.. Claim 17 is directed to an apparatus that is not distinguished from the prior art in terms of structure rather than function. Applicant claims a device for playing a game, but does not provide any features that would make up a game just the structure. The examiner has provided the broadest reasonable interpretation to applicant's claimed invention and references disclosing and/or teaching product appearing to be substantially similar in applicant's claimed invention. The burden shifts to the applicant to show the unobvious differences.

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The examiner notes that since applicant did not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. It can only be assumed applicant acquiesces in this rejection.

The examiner invites applicant to call (571-272-4452) and set up an interview to advance prosecution of the application.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Thursday, 09:00-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit
3714

/A. P. R./
Examiner, Art Unit 3714